

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GEORGE EDWARD McCAIN, an individual,

Plaintiff,

vs.

RAHAL LETTERMAN RACING, LLC, an Ohio limited liability co.; TIME, INC., a Delaware corporation d/b/a SPORTS ILLUSTRATED & PEOPLE MAGAZINE; GANNET CO., INC., a Delaware corporation d/b/a USA TODAY, PIONEER ELECTRONICS (USA), INC., a Delaware corporation; TOYOTA MOTOR SALES, U.S.A., INC., a California corporation; TABLE MOOSE MEDIA, LLC, an Indiana limited liability company d/b/a INDY MEN'S MAGAZINE; NORWALK FURNITURE CORPORATION, an Ohio corporation; F1 MARKETING GROUP, INC., a New York corporation; MOTORSPORT.COM, INC., a Florida corporation; BRIDGESTONE/FIRESTONE INC., an Ohio corporation; CONSUMER ELECTRONICS ASSOCIATION; AMERICAN HONDA MOTOR CO., INC., a Delaware corporation; WORLDWIDE PANTS INCORPORATED, a New York corporation; BOBBY RAHAL AUTOMOTIVE GROUP; LOGICALIS, INC., a New York corporation; THE TIMKEN COMPANY, an Ohio corporation; INTERNATIONAL MOTOR SPORTS ASSOC.; CRASH MEDIA GROUP, LTD., a foreign (U.K.) company; AMERICAN LE MANS SERIES LLC, a Georgia limited liability company; BEA SYSTEMS, INC., a Delaware corporation; GAWKER MEDIA LCC, a Delaware corporation; TIMES PUBLISHING COMPANY, a Florida corporation d/b/a ST. PETERSBURG TIMES; RACEFAN, INC., a corporation; HOWDEN MEDIA GROUP, a foreign (Canada)

CASE NO. 07-CV-5729 (JSR)

**NOTICE OF MOTION TO TRANSFER
CASE; BRIEFING SCHEDULE**

company; NATIONAL LEDGER, LLC, an Arizona limited liability company; DANIEL VIELHABER d/b/a INDYMOTORSPEEDWAY.COM; SANDRA KINSLER d/b/a WOMANMOTORIST.COM; and ELLEN EMERSON d/b/a HONDABEAT.COM,

Defendants.

**TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD
HEREIN:**


PLEASE TAKE NOTICE that defendants Rahal Letterman Racing, LLC and Bobby Rahal Automotive Group shall move the Court for an order transferring this copyright infringement action to the Central District of California, pursuant to 28 U.S.C. section 1404(a).

This Motion will be made on the grounds that a declaratory relief action (*Argent Mortgage Company, LLC, et al. v. Edward McCain*, Case No. SACV 06-749 CJC (RNBx) ("*Argent*")) litigating plaintiff George Edward McCain's ("McCain") same copyright infringement claims as are alleged herein has been pending in the Central District of California since August 2006, that McCain has appeared in and fully participated in *Argent*, including responding to extensive discovery, without attempting to transfer the action to New York or anywhere else, that California is the venue where the operative contract was entered into and where key parties to the dispute reside or have consented to jurisdiction, and that transfer of this action to the Central District of California will serve the convenience of the parties and will further the interests of justice.

The Court set the following briefing schedule:

1. July 27, 2007 – Last day to serve and file moving papers;
2. August 8, 2007 – Last day to serve and file opposition/responding papers;
3. August 15, 2007 – Last day to serve and file reply papers;
4. August 17, 2007 – Oral argument, Courtroom 14B, 2:00 p.m.

DATED: July 25, 2007



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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1875 Century Park East, Suite 2200, Los Angeles, California 90067-2523.

On **July 27, 2007**, I served the foregoing document described as **NOTICE OF MOTION TO TRANSFER CASE; BRIEFING SCHEDULE** on all interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED LIST

- ☐ **BY MAIL:** I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.
- ☐ **BY FACSIMILE:** At or before 5:00 p.m., I caused said document(s) to be transmitted by facsimile. The telephone number of the sending facsimile machine was (310) 553-1540. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the transmission was complete and without error.
- ☒ **BY FEDEX:** I deposited such document(s) in a box or other facility regularly maintained by FedEx, or delivered such document(s) to a courier or driver authorized by FedEx to receive documents, in an envelope or package designated by FedEx with delivery fees paid or provided for, addressed to the person(s) being served.
- ☐ **BY PERSONAL SERVICE:** I delivered such envelope(s) by hand to the office of the person(s) being served.
- ☐ **BY PERSONAL SERVICE:** I personally delivered such envelope(s) directly to the person(s) being served.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on July 27, 2007, at Los Angeles, California.


L. K. Snyder

George Edward McCain v. Rahal Letterman Racing, LLC, etc., et al.
United States District Court Southern District of New York
Case No. 07-CV-5729 (JSR)

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